

BEFORE THE DEPARTMENT OF PUBLIC  
HEALTH AND HUMAN SERVICES OF THE  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF PUBLIC HEARING
37.78.102, 37.78.206, 37.78.208,	)	ON PROPOSED AMENDMENT
37.78.420, 37.78.425, 37.78.506, and	)	
37.78.508, pertaining to Temporary	)	
Assistance for Needy Families (TANF)	)	

TO: All Interested Persons

1. On October 1, 2007, at 1:30 p.m., the Department of Public Health and Human Services will hold a public hearing in the Wilderness Room, 2401 Colonial Drive Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process (including reasonable accommodations at the hearing site) or who need an alternative accessible format of this notice. If you need an accommodation, contact the department no later than 5:00 p.m. on September 21, 2007. Please contact Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena MT 59620-2951; telephone (406)444-9503; fax (406)444-9744; e-mail dphhslegal@mt.gov.

3. The rules as proposed to be amended provide as follows. New matter is underlined. Matter to be deleted is interlined.

37.78.102 TANF: FEDERAL REGULATIONS ADOPTED BY REFERENCE

(1) remains the same.

(2) The "Montana TANF Cash Assistance Manual" dated ~~July 1, 2007~~ January 1, 2008 is adopted and incorporated by this reference. A copy of the Montana TANF Cash Assistance Manual is available for public viewing at each local Office of Public Assistance, and at the Department of Public Health and Human Services, Human and Community Services Division, 111 N. Jackson St., 5th Floor, P.O. Box 202925, Helena, MT 59620-2925. Manual updates are also available on the department's web site at [www.dphhs.mt.gov](http://www.dphhs.mt.gov).

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-601, MCA

37.78.206 TANF: GENERAL ELIGIBILITY REQUIREMENTS (1) remains the same.

(2) Subject to the restrictions set forth in ARM 37.78.220 and in ~~37.78.206(3) of this rule~~, TANF Cash Assistance may be granted to the following classes of persons if they meet all other eligibility requirements:

(a) through (e) remain the same.

(3) The following are not eligible for TANF Cash Assistance:

(a) through (k) remain the same.

(l) an individual all required members of the filing unit, or individuals who would have been a required member of the filing unit at the time of sanction, which includes an individual who is sanctioned for noncompliance in allowable work activities as defined in ARM 37.78.103 and 37.78.807 negotiated in the Family Investment Agreement/WoRC Employability Plan (FIA/EP) or sanctioned for failure to accept and maintain employment without good cause, if the sanction results in an ineligibility period as defined in ARM 37.78.506;

(m) an individual who is sanctioned for noncompliance in employment and training activities negotiated in the Family Investment Agreement and/or WoRC Employability Plan or sanctioned for failure to accept and maintain employment without good cause; ~~and~~

(n) an individual who is incarcerated and does not meet the temporary absence criteria as outlined in ARM 37.78.207; and

(o) all required members of the filing unit if the filing unit includes an individual who has been sanctioned at least twice and the sanctioned individual has not complied with an intensive case management meeting within the first month of eligibility for TANF.

(4) through (6)(a)(i) remain the same.

AUTH: 53-2-201, 53-4-212, MCA

IMP: 53-2-201, 53-4-211, MCA

37.78.208 TANF: INCLUSION IN ASSISTANCE UNIT (1) through (5) remain the same.

(6) New household members required to be included in the assistance unit will be added the month after the month in which the new member entered the household or is reported to be living in the household, whichever occurs later; with the exception of a newborn minor child. A newborn minor child who is required to be included in the assistance unit will be added the date of birth or adoption, provided the household reports the birth or adoption of the newborn minor child within ten days from the date of birth or adoption. If the household fails to report the birth or adoption of the newborn minor child within ten days from the date of birth or adoption, the newborn minor child will be added the month after the month in which the newborn minor child entered the household or is reported to be living in the household, whichever occurs later.

(7) remains the same.

AUTH: 53-2-201, 53-4-212, MCA

IMP: 53-2-201, 53-2-613, 53-4-211, 53-4-601, MCA

37.78.420 TANF: ASSISTANCE STANDARDS; TABLES; METHODS OF COMPUTING AMOUNT OF MONTHLY BENEFIT PAYMENT (1) through (3)(b) remain the same.

(4) The GMI standards, NMI standards, and benefits standards are as

follows:

(a) through (c) remain the same.

(d) The payment standards are compared to the assistance unit's net countable income as defined in ARM 37.78.103.

PAYMENT STANDARDS

(33% of the FY ~~2005~~ 2007 Federal Poverty Level)

1	\$ <del>263</del> <u>281</u>
2	<del>353</del> <u>376</u>
3	<del>442</del> <u>472</u>
4	<del>532</del> <u>568</u>
5	<del>622</del> <u>664</u>
6	<del>711</del> <u>759</u>
7	<del>801</del> <u>855</u>
8	<del>891</del> <u>951</u>
9	<del>980</del> <u>1,046</u>
10	<del>1,070</del> <u>1,142</u>
11	<del>1,160</del> <u>1,238</u>
12	<del>1,249</del> <u>1,333</u>
13	<del>1,339</del> <u>1,429</u>
14	<del>1,429</del> <u>1,525</u>
15	<del>1,518</del> <u>1,621</u>
16	<del>1,608</del> <u>1,716</u>
17	<del>1,698</del> <u>1,812</u>
18	<del>1,787</del> <u>1,908</u>
19	<del>1,877</del> <u>2,003</u>
20	<del>1,967</del> <u>2,099</u>

(5) remains the same.

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-241, 53-4-601, MCA

37.78.425 TANF: NONFINANCIAL ASSISTANCE PAYMENT (1) remains the same.

(2) An assistance unit is eligible to receive a work support payment when:

(a) through (a)(ii) remain the same.

(b) the assistance unit has not received a work support payment in the prior 12 months; and

(c) all members of the assistance unit who were required to participate in allowable work activities as outlined in ARM 37.78.216 have provided verification and/or documentation of participation in the allowable work activities during the month prior to case closure to the WoRC case manager.

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-601, MCA

37.78.506 TANF: TANF CASH ASSISTANCE; SANCTIONS (1) If any member of the assistance unit fails or refuses without good cause as defined in ARM 37.78.508 to comply with an ~~employment related or training activity~~ allowable work activity as defined in (8), or to provide verification and/or documentation of participation in the activities, a sanction will be imposed on the individual. ~~†~~The first sanction will result in the reduction of the monthly TANF Cash Assistance payment by an amount equal to one person's share of the payment for one month. The second ~~and subsequent~~ sanction will result in case closure and the imposition of a one month ineligibility period against all required filing unit members or individuals who enter the household during the ineligibility period and who would have been a required filing unit member at the time of sanction. The third sanction will result in case closure and the imposition of a three month ineligibility period against all required filing unit members or individuals who enter the household during the ineligibility period and who would have been a required filing unit member at the time of sanction. The fourth and subsequent sanctions will result in a six months ineligibility period against all required filing unit members or individuals who enter the household during the ineligibility period and who would have been a required filing unit member at the time of sanction. The ineligibility period will follow the required filing unit members or individual(s) even if they move to another household and apply for benefits as part of that household. This rule does not apply to households who are receiving TANF extended benefits as defined in ARM 37.78.202. The imposition of a sanction ends the currently negotiated FIA/WoRC Employability Plan the last day of the penalty month. A sanction is considered imposed even if a fair hearing is requested and continued benefits are issued.

(2) and (3) remain the same.

(4) ~~A sanctioned individual must negotiate and sign a new Family Investment Agreement prior to the end of the sanction penalty period for the first sanction or the household's TANF Cash Assistance will terminate at the end of the sanction penalty period.~~ A sanctioned individual who is required to negotiate and comply with a FIA/WoRC Employability Plan (FIA/EP) during the sanction penalty month must negotiate a FIA/EP, prior to the reduced benefits being issued to the household.

These individuals are outlined in ARM 37.78.216.

(5) ~~If the TANF Cash Assistance case closes because the sanctioned individual did not end the sanction by negotiating a new FIA during the penalty period, the household must serve a one month ineligibility period for the first sanction as long as the sanctioned individual is a required filing unit member. A sanctioned individual who is not required to negotiate and comply with a FIA/EP during the sanction penalty month must negotiate and sign a new FIA/EP prior to the end of the sanction penalty period for the first sanction or the household's TANF cash assistance will terminate at the end of the sanction penalty period.~~

(6) remains the same.

(7) During the penalty period, child care assistance will continue if:

(a) child care is necessary to allow the TANF Cash Assistance participant to perform ~~employment-related or training activities~~ allowable work activities, as defined in (8), which are required by the Family Investment Agreement FIA/WoRC Employability Plan (FIA/EP); and

(b) the sanctioned individual participates in specified ~~employment-related or training activities~~ allowable work activities throughout the penalty period. If the sanctioned individual fails to comply with any ~~employment-related or training activity~~ allowable work activity during the penalty period, child care assistance will be discontinued and will not be reinstated during the penalty period even if the sanctioned individual begins to comply or participate.

(8) ~~"Employment-related or training activities"~~ "Allowable work activities", as specified in (7)(a), means activities specified on the FIA/WoRC Employability Plan or in the tribal NEW plan which are directly intended to promote economic self-sufficiency. These allowable work activities are defined in ARM 37.78.103 and 37.78.807.

(9) remains the same.

(10) If an individual who has been sanctioned at least twice applies for TANF cash assistance, that individual is required to comply with an intensive case management meeting within the first 30 days of eligibility for TANF, or the case will be closed for failing an eligibility requirement as outlined in ARM 37.78.206(3)(o).

AUTH: 53-4-212, MCA

IMP: 53-4-211, 53-4-601, 53-4-717, MCA

37.78.508 TANF: TANF CASH ASSISTANCE; GOOD CAUSE (1) A TANF Cash Assistance participant's failure to comply with a program requirement, such as providing information necessary to determine eligibility, reporting changes within ten days of knowing of the change, or a requirement under a Family Investment Agreement/WoRC Employability Plan (FIA/EP), including but not limited to participation in an ~~employment and training activity~~ allowable work activity or the requirement of accepting or maintaining suitable employment, shall not result in an adverse action, including imposition of a sanction if good cause exists for the failure to comply.

(2) If it appears that a participant has failed to comply with a FIA requirement, the participant shall be given the opportunity to provide good cause for failing to comply by providing and verifying information to the eligibility case manager or work

readiness component (WoRC) case manager regarding the alleged noncompliance and the reasons for the alleged failure to comply. If the committee that reviews the sanction determines from the available information, ~~including any information provided by the participant~~, that there was a failure to comply and that good cause for the noncompliance does not exist, the participant has failed to prove good cause for the noncompliance, a sanction shall be imposed in accordance with ARM 37.78.506.

(3) Good cause consists of verified circumstances beyond the participant's control which prevent compliance with a requirement or which excuse a failure to comply.

(4) Good cause for failure to keep appointments, report changes, provide required information, or comply with ~~family investment agreement FIA/EP~~ activities or other eligibility requirements includes, but is not limited to, the following verified circumstances:

(a) temporary severe illness or incapacity of the participant for the duration of the illness or incapacity;

(b) temporary severe illness or incapacity of another household member sufficiently serious to require the presence of the participant for the duration of the illness or incapacity;

(c) death of an immediate family member within the 5th degree of kinship (up to a maximum of five working days);

~~(d) participant's incarceration or required court appearance;~~

~~(e) (d) temporary~~ inability to obtain ~~or pay for~~ necessary child care, through no fault of the participant;

~~(f) (e)~~ adverse weather conditions which make travel impossible or unreasonably dangerous;

~~(g) (f) temporary~~ lack of transportation in a case where the participant cannot reasonably be expected to walk or bicycle because of the distance or the participant's health or physical limitations;

(i) Transportation is considered to be available if the participant has the use of a private vehicle, has access to public transportation, or can ride with someone else, provided that a participant will not be required to accept a ride under circumstances which a reasonable person would consider dangerous or unsuitable.

(g) the individual is unable to comply due to a current domestic violence situation.

(5) Good cause for failure to accept employment or for voluntarily quitting a job or reducing earned income from employment includes, but is not limited to, the following verified circumstances:

(a) The wage is less than the state minimum wage.

~~(b) Transportation is not available and the~~ Temporary lack of transportation in a case where the participant cannot reasonably be expected to walk or bicycle to work because of the distance or the participant's health or physical limitations.

(i) Transportation is considered to be available if the participant has the use of a private vehicle, has access to public transportation, or can ride with someone else, provided that a participant will not be required to accept a ride under circumstances which a reasonable person would consider dangerous or unsuitable.

(c) Participant is temporarily unable to obtain ~~or pay for~~ necessary child care

during employment hours, through no fault of the participant.

(d) and (e) remain the same.

(f) The participant has a physical or mental impairment which prevents the participant from accepting or maintaining this employment, as determined by a ~~licensed physician or psychologist~~ qualified medical professional involved in the treatment of the individual. A qualified medical professional is defined as an individual who is currently licensed in the state of Montana and is practicing within their field of expertise.

~~(i) A temporary mental or physical illness, injury, or incapacity may constitute good cause for the duration of the incapacity only.~~

(g) A temporary severe illness or incapacity of the participant for the duration of the illness/incapacity only.

(h) A temporary severe illness or incapacity of another household member sufficiently serious to require the presence of the participant, for the duration of the illness/incapacity only.

~~(g)~~ (i) The participant lacks the necessary work-related skills for the employment and cannot acquire such skills in time to obtain or retain the employment.

(j) The participant is unable to participate in employment due to a current domestic violence situation.

AUTH: 53-2-202, 53-4-212, MCA

IMP: 53-2-201, 53-4-211, MCA

4. The Department of Public Health and Human Services (the department) is proposing to amend ARM 37.78.102, 37.78.206, 37.78.208, 37.78.420, 37.78.425, 37.78.506, and 37.78.508 pertaining to Temporary Assistance for Needy Families (TANF).

#### ARM 37.78.102

ARM 37.78.102 currently adopts and incorporates by reference the TANF policy manual effective July 1, 2007. The department proposes to make some revisions to this manual that will take effect on January 1, 2008, based in part on the TANF Reauthorization regulations contained in the Deficit Reduction Act of 2005, P.L. 109-171 (hereinafter, "TANF Reauthorization"). The proposed amendments to ARM 37.78.102 are necessary in order to incorporate into the Administrative Rules of Montana the revised versions of the policy manuals and to permit all interested parties to comment on the department's policies and to offer suggested changes. It is estimated that changes to the TANF manual could affect approximately 7,998 TANF recipients. Manuals and draft manual material are available for review in each local Office of Public Assistance and on the department's web site at [www.dphhs.mt.gov](http://www.dphhs.mt.gov).

#### ARM 37.78.206

This ARM has been updated to reflect changes in the sanction policy. The

department has seen a number of households reporting that the sanctioned individual has left the household in order to avoid the ineligibility period. The department feels this is an indication that the current policy encourages participants to abuse the system by not being truthful in regards to their household composition during a sanction. The department has also seen an increase in the number of households who during a sanction ineligibility period indicate the children have gone to live with another specified caretaker relative. This allows the children to receive TANF cash assistance in the other household, and to return home after the sanction ineligibility period has been served. The department does not feel that the continual movement of children from one household to another, in order to gain eligibility for TANF cash assistance, is of benefit to the children.

To address these issues, the sanction policy set forth in this ARM is changed so that all individuals who are or would be required filing unit members at the time of sanction are subject to the ineligibility period related to a sanction if an ineligibility period is imposed. This ineligibility period will follow those individuals if they apply for benefits in another case.

The ARM has also been updated to reflect changes in the sanction policy that will require individuals who are applying for TANF cash assistance and who have been sanctioned at least twice to participate in an intensive case management meeting during the first month of eligibility. Failure to participate in this intensive case management meeting will result in case closure for failing an eligibility requirement.

The TANF Reauthorization regulations contain strict definitions of allowable work activities, as well as criteria for verification and documentation of such work activities. TANF Reauthorization limits those activities states may claim as allowable work activities for purposes of meeting the work participation rate as mandated by the Administration for Children and Families. Individuals who are not complying with these allowable work activities are subject to sanction and have a negative impact to the work participation rate. Failure to meet this work participation rate will result in monetary penalties to the state. By strengthening the consequences for noncompliance in the allowable work activities, the department believes it may limit the negative impact to the work participation rate.

While considering changes to the sanction policy, the department also included changes to mitigate difficulties in the sanction process. Individuals who are required to participate in allowable work activities may be granted exceptions to participating provided a qualified medical professional who is currently involved in treating the individual provides a signed statement attesting to the temporary full incapacity of the individual. If individuals are not fully incapacitated, the department will offer accommodations which will allow them to participate to the best of their ability in allowable work activities. As long as the individual participates to the best of their ability, a sanction would not be recommended and/or imposed.

In preparing changes to the sanction policy, the department also has taken into consideration changes it intends to make effective January 1, 2008 regarding the



hours of required participation in allowable work activities. The department is proposing changes to decrease participation hours. By decreasing the required hours of participation, the department will better meet the needs of individuals who are required to participate in allowable work activities, but have family obligations that also need to be met.

Changes in the sanction policy include a "resetting" of the sanction clocks for all TANF participants, which will allow individuals to start with a "clean slate" in regards to sanctions and will offer all participants the opportunity to understand fully and comply with the requirements prior to the imposition of a sanction.

The changes will apply to an average of approximately 7,062 TANF participants who currently are mandated to participate in work activities or are a member of the participant's filing unit. There will be no additional cost to the state unless a penalty is imposed for failure to meet the work participation rate.

#### ARM 37.78.208

This ARM has been updated to reflect a decision of the department to include a newborn minor child in the assistance unit upon the date of birth or adoption of the newborn minor child, provided the household reports the birth or adoption within ten days from the date of birth or adoption.

This change will allow single parents with a newborn child to take advantage of the existing exemption from allowable work activities the month the child is born and/or adopted. Currently, the child is not added to the household until the month following the month of birth or report of the birth, whichever is later. This change will also allow the department to disregard these individuals from the TANF work participation rate, which has a positive impact on the work participation rate, avoiding monetary penalties for failure to meet the work participation rate.

This change will have a positive impact on TANF cash assistance participants.

This change will apply to an average of approximately 3,810 TANF cases out of which approximately 400 in a six-month period are estimated to have a newborn child. There will be an additional cost to the state as TANF benefits will be supplemented the month of birth or adoption. The additional cost is estimated at \$72,000 per year.

#### ARM 37.78.420

This ARM has been updated to reflect the increase in the TANF payment standards to 33% of the 2007 Federal Poverty Level. This increase was approved in the 2007 legislative session under HB2. This change will have a positive impact on TANF cash assistance participants.

This change could affect approximately 7,998 TANF recipients.

#### ARM 37.78.425

This ARM has been updated to reflect that in order to be eligible for a work support payment the household must: (1) be losing cash assistance due to new or increased earnings from employment; (2) the new or increased income must be reported within ten days of the participant's knowledge of the change and verified within ten days from request for verification, if appropriate; and (3) all members of the assistance unit who were required to participate in allowable work activities during the month of closure must have provided verification and/or documentation of their participation in allowable work activities to the WoRC Case Manager. This will allow the department to reconcile the hours of participation attributable to the work participation rate.

The TANF Reauthorization regulations contained in the Deficit Reduction Act of 2005 are very specific as to what constitutes an allowable work activity. The regulations are also very specific as to the type of verification and documentation of participation in work activities that would allow the department to include the hours of participation in the calculation of the work participation rate. If individuals who are closing off TANF cash assistance do not provide verification and documentation of participation in allowable work activities, the department is unable to attribute hours of participation to the work participation rate. This has a negative impact on the work participation rate and may result in monetary penalties to the state.

This change will apply to an average of approximately 2,354 TANF participants who currently are mandated to participate in work activities. There will be no additional cost to the state unless a penalty is imposed for failure to meet the work participation rate.

#### ARM 37.78.506

This ARM has been updated to clarify existing policy that failure to provide verification of documentation of participation in allowable work activities will result in imposition of a sanction. This ARM has also been updated to clarify existing policy regarding the requirement for work-eligible individuals, as defined in the TANF Reauthorization, to agree to participate in allowable work activities during a sanction penalty month, prior to reduced TANF cash assistance being issued to the household.

This ARM has also been updated to reflect changes in the sanction policy. The department has seen a number of households reporting that the sanctioned individual has left the household in order to avoid the ineligibility period. The department feels this is an indication that the current policy encourages participants to abuse the system by not being truthful in regards to their household composition during a sanction. The department has also seen an increase in the number of households who during a sanction ineligibility period indicate the children have gone to live with another specified caretaker relative. This allows the children to receive

TANF cash assistance in the other household, and to return home after the sanction ineligibility period has been served. The department does not feel that the continual movement of children from one household to another, in order to gain eligibility for TANF cash assistance, is of benefit to the children.

To address these issues, the sanction policy set forth in this ARM is changed so that all individuals who are or would be required filing unit members at the time of sanction are subject to the ineligibility period related to a sanction if an ineligibility period is imposed. This ineligibility period will follow those individuals if they apply for benefits in another case.

The ARM has also been updated to reflect changes in the sanction policy that will require individuals who are applying for TANF cash assistance and who have been sanctioned at least twice to participate in an intensive case management meeting during the first month of eligibility. Failure to participate in this intensive enrollment process will result in case closure for failing an eligibility requirement.

This ARM has also been updated to reflect changes in the sanction policy regarding individuals who are not work-eligible individuals and who are not required to participate in allowable work activities during a sanction penalty month. These individuals will be required to negotiate a Family Investment Agreement/WoRC Employability Plan (FIA/EP) prior to the end of the sanction penalty month or the TANF cash assistance of the household will terminate at the end of the sanction penalty month, and the household would then be required to reapply for TANF cash assistance. Currently these individuals are required to negotiate a (FIA/EP) prior to the end of the sanction penalty month to avoid the imposition of a one month ineligibility period.

The TANF Reauthorization regulations contain strict definitions of allowable work activities, as well as criteria for verification and documentation of such work activities. TANF Reauthorization limits those activities states may claim as allowable work activities for purposes of meeting the work participation rate as mandated by the Administration for Children and Families. Individuals who are not complying with these allowable work activities are subject to sanction and have a negative impact to the work participation rate. Failure to meet this work participation rate will result in monetary penalties to the state. By strengthening the consequences for noncompliance in the allowable work activities, the department believes it may limit the negative impact to the work participation rate.

While considering changes to the sanction policy, the department also included changes to mitigate difficulties in the sanction process. Individuals who are required to participate in allowable work activities may be granted exceptions to participating provided a qualified medical professional who is currently involved in treating the individual provides a signed statement attesting to the temporary full incapacity of the individual. If individuals are not fully incapacitated, the department will offer accommodations which will allow them to participate to the best of their ability in allowable work activities. As long as the individual participates to the best of their

ability, a sanction would not be recommended and/or imposed.

In preparing changes to the sanction policy, the department also has taken into consideration changes it intends to make effective January 1, 2008 regarding the hours of required participation in allowable work activities. The department is proposing changes to decrease participation hours. By decreasing the required hours of participation, the department will better meet the needs of individuals who are required to participate in allowable work activities, but have family obligations that also need to be met.

Changes in the sanction policy include a "resetting" of the sanction clocks for all TANF participants, which will allow individuals to start with a "clean slate" in regards to sanctions and will offer all participants the opportunity to understand fully and comply with the requirements prior to the imposition of a sanction.

The changes will apply to an average of approximately 7,062 TANF participants who currently are mandated to participate in work activities or are a member of the participant's filing unit. There will be no additional cost to the state unless a penalty is imposed for failure to meet the work participation rate.

#### ARM 37.78.508

This ARM has been updated both to clarify and reflect changes to what constitutes good cause for failure to comply with a program requirement, such as Family Investment Agreement/WoRC Employability Plan (FIA/EP) requirements, including participation in allowable work activities and the requirement to accept and maintain employment.

The department has always excused a participant's failure to comply with a program requirement upon the showing of "good cause". With the implementation of the TANF Reauthorization regulations the department felt the good cause criteria should be updated to reflect the focus of the TANF cash assistance program on employment. The department also felt it was necessary to clarify that the responsibility to provide information and verification of good cause lies with the participant, keeping with the employment focus of the program.

The department felt it was necessary to add an acceptable good cause reason based on an individual's inability to comply with a program requirement due to a current domestic violence situation. The department also added language to make the good cause for failure to comply with a program requirement consistent with good cause for failing to accept and maintain employment, where applicable.

The TANF Reauthorization regulations contained in the Deficit Reduction Act of 2005 are very specific as to what constitutes an allowable work activity. The regulations are also very specific as to the type of verification and documentation of participation in work activities that would allow the department to include the hours of participation in the calculation of the work participation rate. If individuals who are

required to participate in allowable work activities fail to fulfill their obligation of participation, the department is unable to attribute hours of participation to the work participation rate. This has a negative impact on the work participation rate and may result in monetary penalties to the state.

This change will apply to an average of approximately 2,354 TANF participants who currently are mandated to participate in work activities. There will be no additional cost to the state unless a penalty is imposed for failure to meet the work participation rate.

Following is a brief overview of the TANF manual sections with substantive changes related to the above ARM changes.

#### TANF 201-3 - Adding/Removing Members

TANF 201-3 is being updated to reflect that a newborn minor child is added to the assistance unit the day of birth or adoption, provided the household reports the birth or adoption of the newborn minor child within ten days of the birth or adoption. Failure to report the birth or adoption within ten days will result in the newborn child being added the month following the month of birth or report of the birth, whichever is later.

#### TANF 702-2 - WoRC Sanction Review Process/Good Cause

TANF 702-2 is being updated to reflect the responsibility of the participant to provide and verify information related to good cause for failing to comply with a program requirement.

#### TANF 702-3 - Sanction

TANF 702-3 is being updated to reflect the changes to the sanction policy/process.

#### TANF 704-2 - Work Support Payments

TANF 704-2 is being updated to reflect the change in policy that requires an individual who is losing TANF eligibility based on new or increased earned income to provide verification and documentation of participation in allowable work activities to the WoRC Case Manager, prior to being eligible for a work support payment.

#### TANF 1509-1 - Good Cause Criteria

TANF 1509-1 is being updated to reflect the clarifications and changes to the good cause criteria.

5. The TANF manual changes and changes to ARM 37.78.102, 37.78.206, 37.78.208, 37.78.425, 37.78.506, and 37.78.508 will have an applied effective date of January 1, 2007. The changes to ARM 37.78.420 will be applied retroactively to

July 1, 2007. No adverse impact is expected with the retroactive applicability date as to ARM 37.78.420.

6. Interested persons may submit comments orally or in writing at the hearing. Written comments may also be submitted to Gwen Knight, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 202951, Helena MT 59620-2951, no later than 5:00 p.m. on October 4, 2007. Comments may also be faxed to (406)444-9744 or e-mailed to [dphhslegal@mt.gov](mailto:dphhslegal@mt.gov). The department maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. To be included on such a list, please notify this same person or complete a request form at the hearing.

7. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of this notice conform to the official version of the notice as printed in the Montana Administrative Register, but advises all concerned persons that, in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. The web site may be unavailable at times, due to system maintenance or technical problems.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. The Office of Legal Affairs, Department of Public Health and Human Services, has been designated to preside over and conduct the hearing.

/s/ Francis X. Clinch  
Rule Reviewer

/s/ Joan Miles  
Director, Public Health and  
Human Services

Certified to the Secretary of State August 27, 2007.